REMARKS

By this amendment, claims 1, 12, 22-23, and 25 have been amended. Non-elected claims 4-6, 13, and 15-19 are withdrawn. Claims 9-11, 24, and 26 have been canceled. Claims 1-8, 12-23, and 25 are pending in the application. Applicant reserves the right to pursue the original claims and other claims in this and other applications.

Claims 10-11, 24, and 26 have been canceled to further prosecution without prejudice to their underlying subject matter.

Claim 9 stands rejected under 35 U.S.C. § 101 as directed to non-statutory subject matter and has been canceled.

Claims 1-2, 7-9, 12, 20, and 22 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Nakane et al. (US 6,463,021). This rejection is respectfully traversed.

Claim 1 recites a recording method for recording data comprising, *inter alia*, "a first step of determining, after interrupting a formatting process and recording user data, whether to perform a defect detection process on at least a portion of the recording area in which the data are recorded based on a predetermined determination criterion" (emphasis added). Claims 12, 22-23, and 25 recite similar limitations. Applicant respectfully submits that Nakane et al. does not disclose these limitations.

To the contrary, Nakane et al. is silent with respect to a formatting process. Nakane et al. discloses only that "data recording means 24 performs error correction coding on the data in accordance with a format, and outputs the data as signals to be recorded." Col. 9, ln 23-26. Applicant respectfully submits that Nakane et al. does not disclose, teach, or

suggest that recording user data interrupts a formatting process, as recited in claims 1, 12, and 22.

As can be appreciated from the present invention specification at FIG. 3, steps 405, 409, 411, 413, 415, and 417, for example, the present invention determines whether to perform a defect detection process (verification process) after interrupting a formatting process and recording user data. On the other hand, Nakane et al. does not disclose, teach, or suggest such a feature of the present invention.

Since Nakane et al. does not disclose all the limitations of claims 1, 12, and 22, claims 1, 12, and 22 are not anticipated by Nakane et al. Claims 2, 7-9, and 20 depend, respectively, from independent claims 1 and 12, and are patentable at least for the reasons mentioned above, and on their own merits. Applicant respectfully requests that the 35 U.S.C. § 102(b) rejection of claims 1-2, 7-9, 12, 20, and 22 be withdrawn and the claims allowed.

Claims 3, 14, and 23-25 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Nakane et al. in view of Takasago et al. (US 4,730,290). This rejection is respectfully traversed. In order to establish a *prima facie* case of obviousness "the prior art reference (or references when combined) must teach or suggest all the claim limitations." M.P.E.P. §2142.

Neither Nakane et al. nor Takasago et al., even when considered in combination, teaches or suggests all limitations of independent claims 23 and 23. Claims 23 and 25 recite limitations similar to claims 1, 12, 22-23, and 25; therefore, Takasago et al. does not cure the above-discussed deficiencies of Nakane et al.

Claims 3 and 14 depend, respectively, from claims 1 and 12, and are patentable at least for the reasons mentioned above, and on their own merits. Although the Office Action indicates on page 5 that claim 24 is also rejected, Applicant notes that claim 24 was withdrawn from consideration due to the election of species requirement, and has been canceled to further prosecution without prejudice to its underlying subject matter.

Applicant respectfully requests that the 35 U.S.C. § 103(a) rejection of claims 3, 14, and 23-25 be withdrawn and the claims allowed.

In view of the above, Applicant believes the pending application is in condition for allowance.

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Respectfully submitted,

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